

The House Committee on Natural Resources and Environment offers the following substitute to SB 510:

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 1 of Chapter 2 of Title 12 of the Official Code of Georgia Annotated,
2 relating to general provisions related to the Department of Natural Resources, so as to change
3 certain provisions relating to minimum standards and procedures for protection of river
4 corridors, streams, and reservoirs as part of local government comprehensive plans; to define
5 certain terms; to provide certain exemptions from stream and water supply reservoir buffer
6 requirements; to provide for grant of variances from stream and water supply reservoir buffer
7 requirements under certain circumstances by the director of the Environmental Protection
8 Division; to provide for alternative methods of protection of small water supply watersheds;
9 to provide for applicability; to provide effective dates; to repeal conflicting laws; and for
10 other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Article 1 of Chapter 2 of Title 12 of the Official Code of Georgia Annotated, relating to
14 general provisions related to the Department of Natural Resources, is amended in subsection
15 (c) of Code Section 12-2-8, relating to minimum standards and procedures for protection of
16 river corridors, streams, and reservoirs as part of local government comprehensive plans, by
17 adding new paragraphs to read as follows:

18 "(1.1) 'Large water supply watershed' means a water supply watershed consisting of not
19 less than 100 square miles of land area."

20 "(4) 'Small water supply watershed' means a water supply watershed consisting of less
21 than 100 square miles of land area.

22 (5) 'Storm-water management ordinance' means an ordinance regulating the collection,
23 conveyance, storage, treatment, and disposal of storm-water runoff in a manner intended
24 to prevent increased flood damage, streambank channel erosion, habitat degradation, and

1 water quality degradation and to enhance and promote the public health, safety, and
2 general welfare.

3 (6) 'Water supply reservoir' means a governmentally owned impoundment of water the
4 primary purpose of which is to provide water to one or more governmentally owned
5 public drinking water systems. Such term does not include any multipurpose reservoir
6 owned by the United States Army Corps of Engineers.

7 (7) 'Water supply watershed' means that portion of a watershed that is upstream of a
8 water supply reservoir or governmentally owned public drinking water intake."

9 SECTION 2.

10 Said article is further amended in Code Section 12-2-8, relating to minimum standards and
11 procedures for protection of river corridors, streams, and reservoirs as part of local
12 government comprehensive plans, by striking subsections (b) and (d) and inserting in lieu
13 thereof the following:

14 "(b) The department is therefore authorized to develop minimum standards and procedures,
15 in accordance with paragraph (2) of subsection (b) of Code Section 50-8-7.1 and in
16 accordance with the procedures provided in Code Section 50-8-7.2 for the promulgation
17 of minimum standards and procedures, for the protection of the natural resources,
18 environment, and vital areas of the state, including, but not limited to, the protection of
19 mountains, the protection of river corridors, the protection of ~~watersheds of streams and~~
20 ~~reservoirs which are to be used for public water supply~~ water supply watersheds, for the
21 protection of the purity of ground water, and for the protection of wetlands, which
22 minimum standards and procedures shall be used by local governments in developing,
23 preparing, and implementing their comprehensive plans as that term is defined in paragraph
24 (3) of subsection (a) of Code Section 50-8-2."

25 "(d)(1) The minimum standards and procedures for watershed protection referred to in
26 subsection (b) of this Code section shall specifically include, but shall not be limited to,
27 buffer areas along streams and water supply reservoirs, land development densities, and
28 land use activities. The department may adopt differing minimum standards and
29 procedures of watershed protection based on ~~the size of the watershed~~ whether a large
30 water supply watershed or small water supply watershed is involved, the size or flow
31 volume of the stream or water supply reservoir, and whether or not the actual use of the
32 ~~municipal~~ water supply is existing or proposed.

33 (2)(A)(i) Nothing in such standards shall prohibit or be construed to prohibit the
34 building of a single-family dwelling, including the usual appurtenances thereto, within
35 that portion of a buffer area, if any, that is in addition to the minimum buffer area

1 required under Chapter 7 of this title, the 'Erosion and Sedimentation Act of 1975,'
2 subject to the following conditions:

3 (I) Such dwelling must be in compliance with all other local zoning regulations;

4 (II) A septic tank or tanks serving such dwelling may be located in said additional
5 buffer area but the drainfield for any such tank or tanks must be outside said area;
6 and

7 (III) Any such dwelling must be located on a tract containing at least two acres of
8 land and there shall be only one such dwelling on each such two-acre or larger tract.

9 (ii) Except as expressly provided otherwise in division (i) of this subparagraph, septic
10 tanks and septic tank drainfields shall be prohibited within such additional buffer area.

11 (iii) Such standards shall provide for encroachments into the additional buffer area
12 as needed for the construction of public roads and public utility crossings of such
13 additional buffer areas, provided that such encroachments meet all applicable
14 requirements of Chapter 7 of this title.

15 (B) Any minimum standards and procedures adopted by the department under
16 subsection (b) of this Code section that provide for buffers along streams or water
17 supply reservoirs that are in addition to those minimum buffers required by Chapter 7
18 of this title shall provide for a variance from such additional buffer requirements. On
19 or before December 31, 2006, the Board of Natural Resources shall adopt rules and
20 regulations that contain specific criteria for the grant or denial by the director of
21 requests for variances. After such date, no variance shall be granted by the director
22 which is not consistent with the criteria contained in such rules and regulations. Such
23 rules and regulations shall provide, at a minimum, that the director shall consider
24 granting a variance in the following circumstances:

25 (i) Where a proposed land disturbing activity within the additional buffer would
26 require the landowner to acquire a permit from the United States Army Corps of
27 Engineers under Section 404 of the federal Water Pollution Control Act Amendment
28 of 1972, 33 U.S.C. Section 1344, and the Corps of Engineers has approved a
29 mitigation plan to be implemented as a condition of such a permit;

30 (ii) Where the landowner provides a plan satisfactory to the director that shows that,
31 even with the proposed land disturbing activity within the additional buffer, the
32 completed project will result in maintained or improved water quality downstream of
33 the project; or

34 (iii) Where a project with a proposed land disturbing activity within the additional
35 buffer is located in or upstream and within ten linear miles of a stream segment listed
36 as impaired under Section 303(d) of the federal Water Pollution Control Act

Amendment of 1972, 33 U.S.C. Section 1313(d) and the landowner provides a plan satisfactory to the director that shows that the completed project will result in maintained or improved water quality in such listed stream segment and that the project has no adverse impact relative to the pollutants of concern in such stream segment.

All projects covered under divisions (i), (ii), and (iii) of this subparagraph shall meet all criteria set forth in rules and regulations for specific variance criteria adopted by the board by December 31, 2006.

(C) In addition to complying with minimum standards and procedures for buffers along streams and water supply reservoirs in small water supply watersheds as adopted by the department under subsection (b) of this Code section that provide for buffers along streams or water supply reservoirs in addition to those minimum buffers required by Chapter 7 of this title, a local government may adopt a storm-water management ordinance applicable to perennial streams in that portion of a small water supply watershed that lies within a seven mile radius upstream of a water supply reservoir or governmentally owned public drinking water intake and which ordinance is approved by the department as protecting water quality in the small water supply watershed to an extent equal to or better than that protection afforded by such minimum standards and procedures for buffers along streams and water supply reservoirs. The department shall develop a model storm-water management ordinance for local governments and shall establish standards and procedures for monitoring water quality for purposes of this subparagraph.

(D)(i) This paragraph shall not apply to counties and municipalities within the Metropolitan North Georgia Water Planning District under Article 10 of Chapter 5 of this title.

(ii) If any county or municipality within the area defined by paragraph (2) of Code Section 12-5-441 lies outside the Metropolitan North Georgia Water Planning District under Article 10 of Chapter 5 of this title, then the provisions of Part 6 of Article 5 of Chapter 5 of this title shall not apply to such outlying county or municipality, but the provisions of this Code section and any rules or regulations adopted thereunder shall apply to such outlying county or municipality."

SECTION 3.

For purposes of promulgating rules and regulations, this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval; for all other purposes, this Act shall become effective on July 1, 2006.

- 1 **SECTION 4.**
- 2 All laws and parts of laws in conflict with this Act are repealed.